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EDUCATION AND THE WORKFORCE

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April 14, 2023

Jerry Akers, President
Sharpness, Inc.
2031 Linn Benton Road
Palo, Iowa 52324

Dear Mr. Akers:

Thank you, again, for testifying at the March 28 Committee on Education and the Workforce hearing on "Unleashing America's Opportunities for Hiring and Employment."

Enclosed is an additional question submitted by a Committee member following the hearing. Please provide a written response no later than May 5, 2023, for inclusion in the hearing record. Responses should be sent to Michael Davis of the Committee staff, and he can be contacted at (202) 225-7101.

We appreciate your contribution to the work of the Committee.

Sincerely,

A handwritten signature in blue ink that reads "Virginia Foxx".

Virginia Foxx
Chairwoman

Enclosed

Question for the Record for Jerry Akers

Full Committee Hearing:
“Unleashing America’s Opportunities for Hiring and Employment”
March 28, 2023
10:00 a.m.

Representative Lisa McClain (R-MI)

1. Notice of Proposed Rulemaking: Employee or Independent Contractor

Classification Under the Fair Labor Standards Act: This rule rescinds the independent contractor rule adopted in 2021 by the Trump Administration. It replaces it with an overly restrictive six-factor economic reality test to determine whether a worker is “economically dependent” on a company. A bicameral letter was sent by dozens of congressional members opposing the proposed rule.^[1] California passed AB5 in 2019, which implemented a three-part test for independent contractors.^[2] California then had to pass AB 2257—the “fix it” bill—which created more than 75 exceptions to the law that fundamentally didn’t work in practice. A study by Upwork estimates that 59 million Americans performed freelance work in 2021 and contributed \$1.3 trillion to the U.S. economy.^[3]

Mr. Akers: If this rule were finalized, how many of these Americans will lose access to their current employment and either (1) have to move to a less flexible arrangement or (2) lose their job altogether?

[1] https://edworkforce.house.gov/uploadedfiles/bicameral_dol_ic_nprm_comments.pdf

[2] <https://thehill.com/opinion/finance/3677431-california-has-a-terrible-labor-law-the-biden-administration-wants-to-take-it-national/>

[3] Adam Ozimek, Freelance Forward Economist Report, UPWORK, <https://investors.upwork.com/news-releases/news-release-details/upwork-study-finds-59-million-americans-freelancing-amid#:~:text=In%20a%20turbulent%20job%20market,million%20more%20than%20in%202020>